

Please add new claims 34-119 enclosed in the attachment hereto entitled "New Claims" (5 pages).

### **REMARKS**

Reconsideration of this application is respectfully requested.

New claims 34-119 have been added to replace the originally filed claims 1-33. Support for the new claims is found throughout the specification and in the originally filed claims, such as, for example, in those portions of the specification that disclose the compounds of the invention and their uses, alone or in combination with other compounds (e.g. cyclooxygenase inhibitor), special use carriers (pharmaceutical, veterinary and nutritional), and/or instructions for use. *See inter alia*, page 3, line 27-page 4, line 7; page 5, lines 8-15; page 7, line 10-15, page 13, lines 13-15, and the text of the parent application U.S. Ser. No. 08/631,661 ["the '661 application"], incorporated by reference in the present application, the portions of which are herewith inserted by amendment. No new matter has been added.

The present specification is amended, pursuant to MPEP §§ 608.01(p) and 2163.07(b) to reproduce the subject matter of the parent '661 application (*see* pages 6-7, 22 (last two paragraphs) and 24 (last paragraph)). The amendment is being accompanied by the *In re Hawkins* Declaration pursuant to MPEP § 608.01(p). Thus, no new matter has been added.

### **Status of Claims**

Claims 1-17, 20, 21 and 33 stand rejected. Claims 18, 19 and 22-32 are objected to on the ground that they depend from the rejected claims, and are indicated allowable if rewritten in independent form.

### **Rejection Under 35 USC § 112**

Claims 20-21 and 33 are rejected under 35 USC § 112, first and second paragraphs, for lack of written description and as indefinite with respect to the phrases “preventing diseases caused by chronic inflammation” and “preventing vascular diseases”. The Examiner states that the specific diseases must be disclosed in the specification to enable the Examiner to determine if such diseases are preventable.

The applicants respectfully submit that the specification reasonably conveys to a person of skill in the art that the applicants were in possession, as of the effective filing date, of the methods of treatment and prophylaxis of inflammatory and/or vascular diseases and/or conditions. Examples of such diseases and/or conditions are provided in the specification, and the underlying mechanisms are described (*see e.g.* page 11, line 25 to page 20, lines 24). Moreover, a person of skill in the art would recognize that such diseases and/or conditions are amenable not only to therapeutic but also prophylactic treatment. In fact, aspirin has long been known and prescribed for such uses. Thus, a person of skill in the art would recognize that the applicants were in possession of the invention as of the effective filing date and, moreover, that the claims particularly point out and distinctly claim the invention. Withdrawal of the rejection is respectfully requested.

As to the rejection of claims 33 and 5, the rejection is moot. Its withdrawal is respectfully requested.

### **Rejection Under 35 USC § 102**

Claims 1-17 stand rejected under 35 USC § 102(b) as anticipated by Clapperton *et al.*, on the ground that the reference teaches compositions containing cocoa procyanidins.

Claims 1-17 have been cancelled. New composition claims 34-78 are directed to compositions containing cocoa procyanidin(s) in *combination* with (i) instructions for use; (ii) pharmaceutical, veterinary or nutritional (e.g. food or dietary supplement) carriers; and/or (iii) cyclo-oxygenase modulating compounds (e.g. aspirin). Clapperton *et al.* neither teach nor suggests the subject matter of these claims. Clapperton *et al.* were concerned with astringency (bitterness) of cocoa beans and their results teach nothing but that "[p]rocyanidins [are] the principal class of compounds responsible for the astringency of cocoa beans and liquor" (*see* page 4, under "Conclusions"). Therefore, the withdrawal of the rejection is believed to be in order. Such action is respectfully requested.

#### **Double Patenting**

Claims 1-17 stand rejected under 35 USC § 101 as claiming the same invention as that of claims 1-9 and 12-14 of the U.S. Pat. No. 5,555,465.

It appears that an error occurred as to this rejection. The U.S. Pat. No. 5,555,465 is entitled "Reconfigurable Fault Control Apparatus" and has no claims relevant to cocoa procyanidins. Withdrawal of the rejection is respectfully requested.

#### **Allowable Subject Matter**

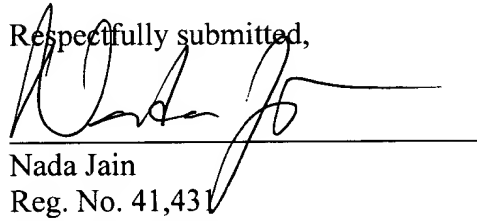
Claims 18-19 and 22-32 were indicated allowable if rewritten in independent form. The new method claims 79-119 and the composition claims 34-74 are based on the utilities recited in the allowable claims. [Composition claims 75-78 are independently patentable as they recite a combination of compounds not taught or suggested by the cited prior art.] Accordingly, the allowance of claims 34-119 is respectfully requested.

**Conclusion**

The application is believed to be in conditions for allowance. An action to this effect is respectfully requested.

Date: March 28, 2001

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nada Jain', is written over a horizontal line.

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